



# Service of Australian civil legal documents overseas (“outgoing requests”)

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This document provides information on the following options for service of documents overseas:

1. [Hague Service Convention](#)
2. [Bilateral treaties with other countries](#)
3. [Diplomatic Channels](#)
4. [Private process servers, local agents and via post](#)

## 1. Hague Service Convention

Australia is a party to the *Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters 1965* ([Hague Service Convention](#)).

The Hague Service Convention allows the transmission of judicial and extrajudicial documents for service to countries which are party to the Convention. A complete list of these countries is available on the Service section of the Hague Conference on Private International Law [website](#).

The Hague Service Convention ensures that the litigant in Australia will receive a certificate or affidavit confirming service or attempted service. This can be used as evidence of service, or the reasons for non-service. This method also provides certainty that the receiving country will not object to service on grounds of sovereignty.

### Preparing the Request for Service

In order to serve a document overseas using the Hague Service Convention, an Australian litigant must refer to the relevant Australian state, territory or Federal Court rules where proceedings are occurring for the steps required, for example:

- **High Court of Australia:** *High Court Rules 2004*
- **Family Court of Australia & Federal Circuit Court of Australia:** *Family Law Regulations 1984*, Part IIA-B
- **Federal Court of Australia:** *Federal Court Rules 2011*, Part 10
- **New South Wales:** *Uniform Civil Procedure Rules 2005*
- **Victoria:** *Supreme Court (General Civil Procedure) Rules 2015*
- **Queensland:** *Uniform Civil Procedure Rules 1999*
- **Western Australia:** *Rules of Supreme Court 1971*

- **South Australia:** *Supreme Court Civil Rules 2006*
- **Tasmania:** *Supreme Court Rules 2000*
- **Australian Capital Territory:** *Court Procedure Rules 2006*
- **Northern Territory:** *Supreme Court Rules*

Generally, the rules will require the litigant in Australia to lodge an application to the Registrar requesting foreign service.

You should check the requirements in the legislation that applies to your matter, however the application to the Registrar (or the person referenced in the legislation) generally must include:

- a Letter of Request, Summary of Documents to be Served form and a blank Certificate of Service. Depending on the Court forwarding the request (i.e. the Family Court, Federal Court of Australia etc.), the forms are located either on the relevant Court website, in the court rules or templates are available on the Hague Conference [website](#)
- the documents to be served
- certified translations where necessary
- duplicates of all documents where required, and
- an undertaking to pay any fees associated with the service of the documents (if required by the relevant court rules).

The request must also take into account the receiving country's reservations, declarations and notifications relating to the operation of the Hague Service Convention. Practical information about each country is available on the Service section of the Hague Conference [website](#).

For further detail on the process, see the checklist on page 3.

## Transmission overseas

If the Registrar (or the person referenced in the relevant legislation) is satisfied that the requirements are complied with, the request will then be transmitted to the receiving country's Central Authority, additional authority or other authority. A list of foreign authorities and their contact details is available on the Service section of the Hague Conference [website](#).

The request should not be forwarded to the Commonwealth Attorney-General's Department.

The foreign authority will then process the request and attempt service in accordance with its domestic laws. The foreign authority will provide formal confirmation that service was successful or unsuccessful and the certificate/affidavit will be transmitted to the forwarding authority (ie the Australian court) to be forwarded to the Australian litigant.

## Costs

There may be costs associated with the execution of the request. In some cases, the forwarding authority will receive a Statement of Costs/Invoice which is payable by the litigant in Australia. The applicant should refer to the practical information pages for the relevant country on the Service section of the Hague Conference [website](#) as some countries may not charge a fee or require upfront payment.

## Outgoing Hague Service Requests – Checklist

Please ensure the relevant Australian court rules are complied with when preparing a Letter of Request – this checklist is to be used as a guide only.

Step 1: Letter of Request	Done
The Letter of Request must be filled out in English, French or (one of) the official language(s) of the Requested State.	
The Letter of Request and documents to be served do not need to be legalised (or apostilled).	
The identity and address of the forwarding authority requesting service is legible and correct.	
This should contain the contact details of the requesting authority (i.e. the Australian court) and not the lawyer or client in the legal matter. Providing an email address will assist overseas authorities to contact the court quickly if defects in the request need to be resolved.	
The address of the receiving authority is legible and correct.	
This is the foreign Central Authority or relevant additional authority (if permitted by that country).	
The address of the person to be served is legible and correct.	
A method of service is selected (if known): <ul style="list-style-type: none"> <li>• <b>Option a):</b> This option should be selected if the documents are to be served by a method prescribed by the internal law of the requested country (formal service) and chosen by that country. The most common methods of service are personal service or service by post. Costs may be incurred if a judicial officer or a person competent under the law of the receiving country is employed to effect service (Hague Service Convention Art. 12(2)(a)).</li> <li>• <b>Option b):</b> This option should be selected if the documents are to be served by a particular method. The specific method should be clearly described in this section and costs may also be incurred when a particular method is chosen (Hague Service Convention Art. 12(2)(b)).</li> <li>• <b>Option c):</b> This option should be selected if the documents are to be served by delivery to an addressee who accepts it voluntarily (informal delivery). The available methods of effecting informal delivery vary among countries and may include postal service, personal service by the court or sheriff's office in response to summons to attend for service, or service by agents engaged by the court. Documents do not need to be translated if voluntary service is selected.</li> </ul>	
The List of Documents is filled out.	
A signature or stamp from the relevant Australian forwarding authority (i.e. the Australian court) requesting service must be affixed.	

Step 2: Translations	Done
Translation requirements will depend on the country where the documents are to be served.	
Practical information about each country is available on the Service section of the Hague Conference website under the 'Authorities' tab. This is where you will find information on the relevant country's translation requirements.	

Step 3: Certificate	Done
A blank copy of the Certificate is attached.	

Step 4: Summary of Documents to be Served	Done
The Summary of Documents to be served is completed and attached. The Summary distinguishes between judicial and extrajudicial documents. Parties should provide as much detail as possible.	

Step 5: Two copies of all documents	Done
Two copies of all documents to be served are provided. Please note that some Australian court rules may require three copies be provided.	

Step 6: Any other requirements	Done
Ensure any other requirements are complied with – for example some Australian court rules require an undertaking related to costs be provided.	

## 2. Australia's bilateral treaties with other countries

### Republic of Korea and the Kingdom of Thailand

Australia has bilateral treaties on judicial assistance with the Republic of Korea (South Korea) and the Kingdom of Thailand:

- *Treaty on Judicial Assistance in Civil and Commercial Matters between Australia and the Republic of Korea 1999*
- *Agreement on Judicial Assistance in Civil and Commercial Matters and Co-operation in Arbitration between Australia and the Kingdom of Thailand 1998*

Thailand is **not** a party to the Hague Service Convention therefore the above treaty is the only agreement currently in place between Australia and Thailand in relation to judicial assistance in civil and commercial matters. The Republic of Korea is a party to the Hague Service Convention, however the bilateral treaty is still used by both parties for the service of documents.

### Bilateral treaties with other countries

Australia is also a party to a number of bilateral treaties entered into by the United Kingdom and by virtue of its membership of the British Commonwealth, the rights and obligations under those treaties also extend to Australia. These treaties entered into force in the 1920s and 1930s. One example is the *Convention between the United Kingdom and Germany regarding Legal Proceedings in Civil and Commercial Matters*. It should be noted that many of the countries now use the Hague Service Convention.

Updated information about bilateral service treaties and the full text of these instruments can be found on the [Australian Treaties Database](#), which is maintained by the Department of Foreign Affairs and Trade.

### Preparing the Request for Service

In order to serve a document using a bilateral treaty, the litigant in Australia must refer to the terms of the treaty and the relevant Australian state, territory or Federal Court rules for the steps required.

Treaties with South Korea and Thailand provide the requirements for the service of Australian legal documents overseas.

Generally, the litigant in Australia will be required to lodge an application to the Registrar (or the person referenced in the relevant legislation) of the relevant state, territory or Federal Court to request overseas service. The application should include:

- a Letter of Request. If the Court rules do not prescribe a form for making the request, we recommend the litigant in Australia model the Letter of Request on the forms prescribed on the Service section of the Hague Conference [website](#)
- certified translations where required by the treaty or the relevant court rules
- the documents to be served
- duplicates of all documents where required by the treaty or the relevant court rules, and
- an undertaking to pay fees associated with the service of the documents (if required by the relevant court rules).

## Transmission overseas

**Republic of Korea and Thailand:** If the Registrar (or the person referenced in the relevant legislation) is satisfied that the requirements are complied with, the request should be transmitted to the Commonwealth Attorney-General's Department to forward the documents to the relevant foreign authority.

To ensure that the transmission of documents to the Department is not delayed, please use the following address:

Private International Law Section  
Attorney-General's Department  
Robert Garran Offices  
3-5 National Circuit  
BARTON ACT 2600  
Australia

**Bilateral treaties with other countries:** If the Registrar (or the person referenced in the relevant legislation) is satisfied that the requirements are complied with, the request should be transmitted to the Department of Foreign Affairs and Trade (DFAT) to forward the documents to the relevant foreign authority.

To ensure that the transmission of documents to DFAT is not delayed, please use the following address:

Paralegal Unit, Corporate Law Branch  
Department of Foreign Affairs and Trade  
R.G. Casey Building  
John McEwen Crescent  
Barton ACT 0221  
Australia

The foreign authority will then process the request and attempt service in accordance with its domestic laws. The foreign authority will provide formal confirmation that service was successful or unsuccessful and the certificate/affidavit will be transmitted to the forwarding authority to be forwarded to the Australian litigant.

## Costs

There may be costs associated with the execution of the request. In most cases, the forwarding authority will receive a Statement of Costs/Invoice which is payable by the litigant in Australia.

### 3. Service using Diplomatic Channels

A foreign authority may accept Australian documents for service through diplomatic channels.

Diplomatic channels are used for the transmission of information between diplomats and foreign states. In Australia these communications are sent and received by the Commonwealth Department of Foreign Affairs and Trade.

Transmission of documents via diplomatic channels is usually only used where bilateral or Convention arrangements do not exist. Service through diplomatic channels can be subject to delays and countries may object to service through this channel for reasons of sovereignty. Countries may also object to service through diplomatic channels on their own citizens, or limit service to Australian citizens only. Each country will be different.

#### How to prepare the request

In order to serve a document using diplomatic channels, you must refer to the relevant Australian state, territory or Federal Court rules for the steps required. For example, the *Family Law Rules 2004* outline what is required for service in a non-convention country.

Generally, the litigant in Australia will be required to lodge an application to the Registrar (or the person referenced in the relevant legislation) of the relevant state, territory or Federal Court to request overseas service. The application should include:

- a Letter of Request. If the Court rules do not prescribe a form for making the request, we recommend the litigant in Australia model the request on the form available on the Service section of the Hague Conference [website](#)
- certified translations where required by the receiving country and the relevant Australian court rules
- the documents to be served
- duplicates of all documents where required by the relevant court rules, and
- an undertaking to pay fees associated with the service of the documents (if required by the relevant court rules).

#### Transmission overseas

If the Registrar (or the person referenced in the relevant legislation) is satisfied that the requirements are complied with, the request will then be sent to the Department of Foreign Affairs and Trade to transmit the request via diplomatic channels. The documents must be sent to the following address:

Paralegal Unit, Corporate Law Branch  
Department of Foreign Affairs and Trade  
R.G. Casey Building  
John McEwen Crescent  
Barton ACT 0221  
Australia

The foreign authority will then process the request and attempt service in accordance with its domestic laws. The foreign authority will provide formal confirmation that service was successful or unsuccessful and the certificate/affidavit will be transmitted to the Department of Foreign Affairs and Trade to be forwarded to the Australian litigant.

## **Costs**

There may be costs associated with the execution of the request. In this case, the forwarding authority will receive a Statement of Costs/Invoice which is payable by the litigant in Australia.

## **Time for execution of request**

The average timeframe for requests to be processed and for service to be effected in a foreign country is approximately 4 – 6 months. This will depend on the country.

## 4. Serving using private process servers, local agents and via post

Private process servers, local agents and registered post may also be used in some circumstances to transmit and serve documents overseas.

Service through private process servers, local agents and via post is only possible if the receiving country accepts this method of service. Countries may object to service by private process servers or registered post for reasons of sovereignty. Countries may also object to service via these methods on their own citizens, or limit service to Australian citizens only.

Service by registered post may also be limited to only certain actions or judicial documents.

The Attorney-General's Department cannot provide information about private process servers' costs, or their contact details.

### **DISCLAIMER:**

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